

Chapter 19.545

Density Bonus**19.545.010 Purpose**

The public good is served by the provision of housing that meets the needs of and affordable to all residents of the City.

- A. It is the purpose of this Chapter to provide incentives to developers for the production of housing affordable to lower-income households, moderate-income households and senior citizens.
- B. It is the purpose of this Chapter to implement the goals, objectives, and policies of the Housing Element of the City's General Plan.
- C. It is the purpose of this Chapter to increase the availability of child care facilities in the City.
- D. It is the purpose of this Chapter to implement Sections 65915 through 65918 of the California Government Code.
- E. Nothing in this Chapter is intended to create a mandatory duty on behalf of the City or its employees under the Government Tort Claims Act and no cause of action against the City or its employees is created by this Chapter that would not arise independently of the provisions of this Chapter.

19.545.020 Regulations for New Residential Construction

- A. Upon written request of an applicant, the City shall grant a density bonus and at least one additional concession or incentive as set forth in Section 19.545.050 (Incentives, Concessions and In-Lieu Incentives), to an applicant or developer of a housing development of at least five units for residential construction as defined in Section 19.545.020 A 1 or 2 or the applicant or developer of a qualified (senior) housing as defined in Section 19.545.020 A 3 who agrees to construct at least one of the following:
 - 1. A minimum of ten percent (10%) of the total units of the housing development as restricted and affordable to low-income households as defined in [Section 50079.5](#) of the Health and Safety Code; or
 - 2. A minimum of five percent (5%) of the total units of the housing development as restricted and affordable to very low income households as defined in [Section 50105](#) of the Health and Safety Code; or
 - 3. Any housing development as restricted to qualified (senior) residents as defined in [Section 51.3](#) and [51.12](#) of the Civil Code; or

4. A minimum of ten percent (10%) of the total dwelling units in a common interest development as defined in [Section 1351](#) of the Civil Code for persons and families of moderate income as defined in [Section 50093](#) of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.
- B. If an applicant exceeds the percentages set forth in Section 19.545.020 A, the applicant shall be entitled to an additional density bonus calculated as follows:
1. For each one percent (1%) increase above the ten percent (10%) of the percentage of units affordable to lower income households, the density bonus shall be increased by one and a half percent (1.5%), up to a maximum of thirty five percent (35%).
 2. For each one percent (1%) increase above the five percent (5%) of the percentage of units affordable to low income households, the density bonus shall be increased by two and half percent (2.5%), up to a maximum of thirty five percent (35%).
 3. For each one percent (1%) increase above the ten percent (10%) of the percentage of units affordable to moderate income households, the density bonus shall be increased by one percent (1%), up to a maximum of thirty-five percent (35%).
- C. The maximum allowable residential yield allowed by the applicable zone for the site shall be multiplied by 0.35. Any resulting decimal fraction shall be rounded to the next larger integer.
- D. If the development does not meet the requirements of paragraphs 1, 2 or 3 of Section 19.545.020 A but the applicant agrees or proposes to construct a development that meets the requirements of paragraph 4 of Section 19.545.020 A, a density bonus of at least ten percent (10%) shall be granted unless the applicant elects a lesser percentage. The number of density bonus units would be determined by the method established in Section 19.545.020 C except the multiplier would be 0.10.
- E. In cases where a density increase of less than thirty-five percent (35%) is requested no reduction will be allowed in the number of target dwelling units required. Target dwelling units is the number of units that will qualify the development for the density bonus as specified in sections 19.545.020 A and B.
- F. In cases where the developer agrees to construct both twenty percent of the total units for low income households and ten percent of the total units for very low income households, the developer is entitled to only one density bonus and at least one additional incentive.
- G. The units made available to lower income households, very low income households and moderate income households must be designed and constructed in the same manner as the market rate units, including but not limited to, the inclusion and use of interior and exterior architectural features, building materials, landscaping materials and construction techniques.
- H. A density bonus housing agreement shall be made a condition of the discretionary permits (e.g., tentative maps, planned residential developments, etc.) for all housing developments that request a density bonus and additional incentives, concessions or in-lieu incentives. The

relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project development that are designated for the location of target dwelling units.

- I. Any project for which a density bonus is granted under this Chapter is not eligible for an additional density bonus under Chapter 19.780 (Planned Residential Development Permit).

19.545.030 Regulations for Condominium Conversions

- A. The City shall grant a density bonus, concession or incentives of equivalent financial value, as set forth in Section 19.545.050 (Incentives, Concessions and In-Lieu Incentives), to an applicant or developer proposing to convert apartments to condominiums, and who agrees to provide the following:
 - 1. A minimum of thirty three percent (33%) of the total units of the housing development as restricted and affordable to low-income or moderate-income households; or
 - 2. A minimum of fifteen percent (15%) of the total units of the housing development as restricted and affordable to lower-income households.
- B. An applicant/developer proposing to convert apartments to condominiums shall be ineligible for a density bonus, concession or incentives under this Section if the apartments proposed for conversion constitute a housing development for which a density bonus, concession or incentives were previously provided under this Chapter.
- C. In determining the number of density bonus dwelling units to be granted pursuant to the standards of this Chapter, the number of existing apartment units within the structure or structures proposed for conversion shall be multiplied by 0.35. Any resulting decimal fraction shall be rounded to the next larger integer.
- D. In determining the number of target dwelling units to be reserved pursuant to the standards of this Section, the number of existing apartment units within the structure or structures proposed for conversion shall be multiplied by either 0.33 or 0.15, for low or moderate-income households or lower-income households, respectively. The density bonus shall not be included when determining the number of housing units, that is equal to thirty three percent (33%) or fifteen percent (15%) of the total units of the housing development. Any resulting decimal fraction shall be rounded to the next larger integer.
- E. In cases where a density increase of less than twenty five percent (25%) is requested, no reduction will be allowed in the number of target dwelling units required.
- F. A density bonus housing agreement shall be made a condition of the discretionary permits (tentative maps, planned unit developments, condominium conversion permits, etc.) for all condominium conversion proposals that request a density bonus, concessions or incentives. The relevant terms and conditions of the density bonus housing agreement shall be filed and recorded as a deed restriction on those individual lots or units of a project development that are designated for the location of target dwelling units.

- G. Nothing in this Chapter shall be construed to require the City to approve a proposal to convert apartments to condominiums.

19.545.040 Regulations for Land Donation

- A. When an applicant for a tentative subdivision map, parcel map, or other residential development donates land to the City that meets the requirements of this section, the applicant shall be entitled to a fifteen percent (15%) increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development.
1. The developable acreage and the zoning classification of the land must be sufficient to permit construction of units in an amount not less than ten percent (10%) of the number of residential units of the proposed development; and
 2. The units shall be affordable to very low income households.
- B. For each one percent (1%) increase above the minimum ten percent (10%) land donation, the density bonus shall be increased by one percent (1%), up to a maximum of thirty five percent (35%). This increase shall be in addition to any increase in density mandated by 19.545.020 A (Regulations for New Residential Construction), the density bonus up to a maximum combined mandated density increase of thirty five percent (35%), if an applicant seeks both the increase required pursuant to this subdivision and 19.545.020 (Regulations for New Residential Construction).
- C. All density calculations resulting in fractional units shall be rounded up to the next whole number.
- D. Nothing in this Section shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.
- E. An applicant shall be eligible for increased density bonus described in Section 19.545.020 B (Regulations for New Residential Construction), if all of the following conditions are met:
1. The land is donated and transferred no later than the date of approval of the final subdivision map, parcel map, or residential development application to the City or to a housing developer approved by the City and by this time the transferred land shall have all permits and approvals, other than building permits, necessary for the development of the very low income housing, with the exception of any design review that would be allowed pursuant to Government Code [Section 65583.2\(I\)](#), as the same may be amended from time to time, if the design has not been reviewed prior to the time of transfer;
 2. The Zoning classification and General Plan designation of the land being transferred is appropriate for affordable housing and the land is or will be served by adequate public facilities and infrastructure;

3. The transferred land is at least one acre in size or of sufficient size to permit development of at least forty (40) units;
4. There must be appropriate zoning and development standards to make the development of the affordable units feasible; and
5. The transferred land is within the boundary of the proposed development. The applicant may submit a written request to the City to allow the transferred land to be located within one-quarter mile of the boundary of the proposed development.

19.545.050 Incentives, Concessions and In-Lieu Incentives

- A. The applicant for a project meeting the requirements of Section 19.545.020 A (Regulations for New Residential Construction) may submit an application for a Site Plan Review Permit or a Planned Residential Development Permit, as appropriate. The applicant for a project meeting the requirements of Section 19.545.020 A may submit a proposal as part of an application for discretionary permits for specific incentive(s) or concession(s) and the City shall grant the requested incentive(s) or concession(s) unless the City makes a written finding, based on substantial evidence, of either of the following:
 1. The incentive or concession is not required in order to provide for affordable housing costs, as defined in [Section 50052.5](#) of the Health and Safety Code, or for rents for targeted units as specified in [Section 65915 \(c\)](#) of the State Government Code.
 2. The incentive or concession would have a specific adverse impact as defined in paragraph (2) of subdivision (d) of [Section 65589.5](#) of the Government Code, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.
- B. The applicant shall receive the following number of incentives or concessions listed in 19.545.050 C:
 1. One incentive or concession for projects that include at least ten percent (10%) of the total units for lower income households, at least five percent (5%) for very low income households, or at least ten percent (10%) for persons and families of moderate income in a common interest development.
 2. Two incentives or concessions for projects that include at least twenty percent (20%) of the total units for lower income households, at least ten percent (10%) for very low income households, or at least twenty percent (20%) for persons and families of moderate income in a common interest development.

3. Three incentives or concessions for projects that include at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) for very low income households, or at least thirty percent (30%) for persons and families of moderate income in a common interest development.
- C. Incentives or in-lieu incentives may include, but are not limited to, the following:
1. A reduction in site development standards or a modification of Zoning Code requirements or architectural design requirements that exceed the minimum building standards approved by the State Building Standards Commission as provided in [Part 2.5 \(commencing with Section 18901\) of Division 13 of the Health and Safety Code](#), including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicle parking spaces that would otherwise be required (see Section 19.545.060 (Parking Standards Incentives)) that results in identifiable, financially sufficient and actual cost reductions.
 2. Approval of Mixed Use Zoning in conjunction with the housing project if commercial, office, industrial or other land uses will reduce the cost of the housing development and if the commercial, office, industrial or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
 3. Other regulatory incentives or concessions proposed by the developer or the City that result in identifiable cost reductions;
 4. Direct financial aid including, but not limited to redevelopment set-aside funding, community development block grant funding, or subsidizing infrastructure, land cost or construction costs or other incentives of equivalent financial value based upon the land costs per dwelling unit.
- D. The value of each incentive will vary from project to project, therefore, additional incentives or in-lieu incentives shall be determined on a case-by-case basis.
- E. For the purpose of the Chapter, “development standard” Includes site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, charter amendment or other local condition, law policy, resolution, or regulation.
- F. Consistent with Government Code [Section 65915 \(j\)](#), the granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.
- G. The provisions set forth in this Chapter provide a process through which the City may implement the density bonus and other incentives provisions of Government Code section 65915, as amended. However, neither those provisions nor any other provision of this Code are intended to require the City to grant any bonus or incentive in addition to those which may be required by Government Code section 65915, as amended. Unless other discretion-

any entitlement is required by this Chapter for a proposed development, including, but not limited to, a conditional use permit, variance, site plan review or modifications, every bonus and incentive shall be approved by resolution of the City Council after review by the Planning Commission.

19.545.060 Parking Standards Incentive

- A. Chapter 19.580 (Parking and Loading) discusses parking and loading development standards. However, upon request of the applicant, the maximum following parking standards shall apply, inclusive of handicapped and guest parking, to the entire housing development that meets standards of Section 19.545.020 A (Regulations for New Residential Construction):
 - 1. One onsite parking space for up to one bedroom;
 - 2. Two onsite parking spaces for up to three bedrooms; and
 - 3. Two and one-half parking spaces for more than three bedrooms.
- B. All parking calculations for the development resulting in a fraction shall be rounded up to the next whole number.
- C. Parking may be provided by tandem parking or uncovered parking, but not by on street parking.
- D. Any applicant may request additional parking incentives or concessions beyond those provided in this section pursuant to 19.545.020 (Regulations for New Residential Construction).

19.545.070 Continued Affordability

- A. An applicant shall agree to, and the City shall ensure, continued affordability of all lower income density bonus units for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
 - 1. Those rental units targeted for lower income households shall be affordable at a rent that does not exceed thirty percent (30%) of sixty percent (60%) of area median income.
 - 2. Those rental units targeted for very low income households shall be affordable at a rent that does not exceed thirty percent (30%) of fifty percent (50%) of area median income.
 - 3. Ownership units shall be made available only to households whose income does not exceed the limits for the targeted households for the duration of the affordable housing agreement.

- B. An applicant shall agree to, and the City shall ensure, that the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in a common interest development are persons and families of moderate income.
1. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the sellers proportionate share of appreciation. The City shall recapture its proportionate share of appreciation, which shall then be used within three years for any purpose described in [Section 33334.2 \(e\)](#) of the Health and Safety Code that promote home ownership. The City's share shall be equal to the percentage by which the initial sales price to the moderate-income household was less than the fair market value of the home at the time of initial sale.
 2. If there is any direct financial contribution from the City through participation in the cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the City may limit the amount of the unit upon resale for a period of 45 years for single-family residential units and 55 years for multi-family residential units.
- C. Affordability shall be ensured by requiring the applicant to enter into an affordable housing agreement that shall be approved by the City Attorney's office, shall be recorded and run with the land.
- D. These requirements shall apply to land transferred pursuant to 19.545.040 (Regulations for Land Donation) and to any very low income units built on such land; the thirty (30) year period shall commence from the date that the final certificate is issued.

19.545.080 Affordable Housing Agreement

- A. Applicants requesting a density bonus and/or incentive, shall agree to enter into an Affordable Housing Agreement with the City. The terms of the draft agreement shall be reviewed and revised as appropriate by the Planning Director, who shall formulate a recommendation to the City Council for final approval.
- B. An applicant shall agree to continued affordability of all low- income, very low- income and senior citizen housing developments with density bonus units for at least thirty (30) years. An applicant shall agree to continued affordability of the moderate- income units that are directly related to the receipt of the density bonus for at least ten (10) years if the housing is in a common interest development.
- C. The Affordable Housing Agreement shall include at least the following:
1. The total number of units approved for the Housing Development, including the number of affordable units.
 2. A description of the household income group to be accommodated by the Housing Development and the standards for determining the corresponding affordable rent or affordable sales price and housings cost.

3. The location, unit sizes (square feet), and number of bedrooms of the affordable units.
4. Tenure of use restrictions for affordable units of at least ten (10) or thirty (30) years.
5. A schedule for completion and occupancy of the affordable units.
6. A description of the development incentive(s) or equivalent financial incentives being provided by the City.
7. A description of remedies for breach of the agreement by either party (the City may identify tenants or qualified purchasers as third party beneficiaries under the agreement).
8. A recorded covenant for the affordable housing project shall be drafted to provide for liquidated damages to be paid to the City should a breach of the terms of the agreement occur. The amount of the liquidated damages shall be determined by the City of Riverside.
9. Other provisions to ensure implementation and compliance with this Chapter.
 - a. In the case of for-sale housing developments, the Affordable Housing Agreement shall provide for the following conditions governing the initial sale and use of affordable units during the applicable use restriction period:
 - (1) Affordable units shall, upon initial sale, be sold to eligible very-low or low- income households at an affordable sales price and housing cost, or to qualified residents.
 - (2) Affordable units shall be initially owner-occupied by eligible very-low or low-income households, or by qualified residents.
 - (3) The initial purchaser of each affordable unit shall execute an instrument or agreement approved by the City restricting the sale of the affordable unit in accordance with this Ordinance during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the affordable unit and shall contain such provisions as the City may require to ensure continued compliance with this Ordinance and the State Density Bonus Law. An applicant shall also comply with any adopted monitoring policies and procedures.
 - b. In the case of rental housing development, the Affordable Housing Agreement shall provide for the following conditions governing the use of affordable units during the use restriction period:
 - (1) The rules and procedures for qualifying tenants, establishing affordable rent, filing vacancies, and maintaining affordable units for qualified tenants;
 - (2) Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this Chapter;

- (3) Provisions requiring the property owner to submit an annual report to the City, that includes the name, address, and income of each person occupying affordable units, and that identifies the bedroom size and monthly rent or cost of each affordable unit.

19.545.090 Eligibility Requirements

Only households meeting the standards for lower-income households (low and very low), moderate-income households, and qualified (senior) residents as defined in Section 19.545.020 A (Regulations for New Residential Construction) shall be eligible to occupy target dwelling units.

19.545.100 Density Bonus Limits

Nothing in this Section shall be construed to prohibit the City from granting a density bonus greater than what is described in this section for a development that meets the requirements of this Section or from granting a proportionately lower density bonus than what is required by this Section for developments that do not meet the requirements of this Section.

19.545.110 Management and Monitoring of Affordable Rental Units

Rental target dwelling units shall be managed/operated by the developer or his or her agent. Each developer of rental target dwelling units shall submit an annual report to the City identifying which units are target dwelling units, the monthly rent, vacancy information for each target rental dwelling unit for the prior year, monthly income for tenants of each target rental dwelling unit throughout the prior year, and other information as required by the City, while ensuring the privacy of the tenant.

19.545.120 Density Bonus for Childcare Facilities

- A. When an applicant proposes to construct a housing development that conforms to the requirements of this Chapter and includes a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the City shall grant either of the following:
 1. An additional density bonus that is an amount of square feet of residential space that is equal to the amount of square feet in the childcare facility; or
 2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.
- B. The City shall require as a condition of approving the childcare facility that the following occur:
 1. The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable.
 2. Of the children who attend the childcare facility, the children of very low income households, lower income households, or families of moderate income shall equal

a percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income.

- C. Notwithstanding any requirement of this subdivision, the City shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.
- D. “Childcare facility,” as used in this Section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended daycare facilities, and school age child care centers.

19.545.130 Appeals

Any appeal relating to density bonuses, incentives, concessions, or waivers/modifications of development standards shall be governed by Chapter 19.680 (Appeals).